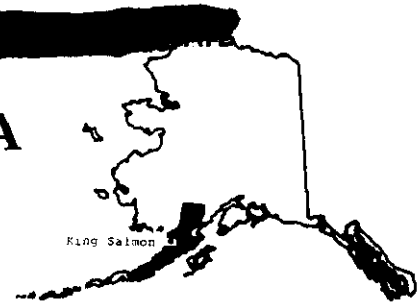




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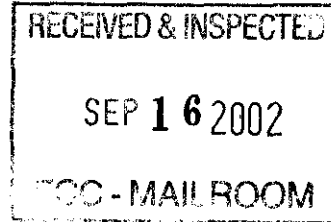
THE LAKE AND PENINSULA SCHOOL DISTRICT

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September 11, 2002

Federal Communications Commission
Office of the Secretary
445-12th Street SW
Washington, DC 20554



Re: Request for review of a Decision of the Universal Service Administration Company and
Request for Waiver by the Lake and Peninsula School District, King Salmon, Alaska

cc Docket No. 96-45
cc Docket No. 97-21

Applicant:	Lake and Peninsula School District
Entity Number:	145583
Form 471 Application Number:	214805
Form 486 Identifier Number:	170830
Funding request numbers:	558270, 558347, 558393, 558410, 558487, 558593, 558612, 558628, 558641, 558660, 558678, 558741, 559478, 559544, 559729
Funding Year:	July 1, 2001-June 30, 2002 (YEAR 4)

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Dear Commission:

In this letter, the Lake and Peninsula School district requests the review of the Administrators Decision on the appeal of funding year 2001-2002 dated July 29, 2002. Alternatively, the District requests a waiver of the deadline for filing form 486 to allow the service start dates of FRN numbers 558270, 558347, 558393, 558410, 558487, 558593, 558612, 558628, 558641, 558660, 558678, 558741, 559478, 559544, and 559729 to begin 7/1/2002 or later.

Background:

The Lake and Peninsula School District is located in remote rural western Alaska. We serve 14 poor remote Indian/Alaskan Native communities in an area the size of the state of Tennessee. Our district is the most isolated and geographically dispersed district in the nation with an average of 1 student per 52 square miles. None of the 14 communities we serve have access to any local internet service provider. In order to provide internet access, the Lake and Peninsula School District made application for year 4 support so that it could receive the benefits of the Schools and Libraries universal services support mechanism. Without this substantial support, the district would otherwise be unable to provide students the benefits of advance telecommunications envisioned by the act. In late July of 2001, the District received a funding commitment for the application it had filed on January 11, 2001 approving all requests for telephone and internet access. On August 1, 2001, the Lake and Peninsula School District mailed a year 4 Form 486 reflecting all the FRNs approved in a Funding

Commitment Decision Letter dated July 23, 2001 from the Universal Service Administration Company, Schools and Library Division (SLC). In September the district became concerned about the receipt of a 486 notification letter as billings for services, which started July 1, were due to be paid. We therefore initiated contact with SLC on 9/24/2001. As requested, we provided SLC a faxed copy of the return receipt and signature page and requested a follow-up on the status. On the fourth phone contact with SLC on October 18, 2001, SLC representative indicated that our year four form 486 was posted to year 3. It was discovered that the submitted form 486 contained a typo in block 3 indicating a funding year of 7/1/2000-7/1/2002. SLC verbally directed us to resubmit Form 486, which we did immediately on 10/18/2001. Subsequently, the SLC returned our original form 486 with a letter on 10/19/2002. No further action was taken by the district on the returned form 486 as we had already resubmitted the year 4 form 486 with a corrected date in block 3 on October 18, 2001. Again, the district was concerned about the receipt of a 486 notification letter and initiated contact with SLC on 11/19/2002. On December 7, 2002 SLC verbally informed us that the Form 486 submitted October 18th had been certified. Concerns arose when the verbal notification indicated that only 8 of the 23 FRNs had been certified. After numerous discussions and follow-up with SLC the district, as directed by SLC, resubmitted the Form 486 with the missing pages on December 19, 2001. On January 9, 2002 the district received a 486 notification letter indicating that service start date of the above referenced FRNs had been changed to December 19 due to the Year 4 CIPA deadline. On January 15, 2002 the District filed an appeal with the Schools and Library Corporation (copy of appeal attached "ATTACHEMENT 1"). In a letter dated July 29, 2002 the SLC denied in full our appeal (Copy of denial attached "ATTACHEMENT 2"). We are now requesting FCC provide relief to the Lake and Peninsula School District through this appeal.

Relief Requested:

We ask the FCC to provide relief to the District through one or more of the following four actions:

1) Accept and process the original 486 as submitted on August 1, 2001.

The District's original submittal of the Form 486 on August 1, 2002 (copy attached "ATTACHMENT 3") was received and processed by the SLC on August 6, 2002. The form was the newly revised FCC Form 486 - July 2001. As can be seen from a review of the form, returned by SLC, the district inadvertently failed to note a typo in block three prior to submittal. The funding year indicated in block 3 was typed as 7/1/2000-6/30/2002. All other items within the form 486 as submitted indicate year 4. Specifically, the applicants form identifier was "LPSPDYR4486"; All block 3 item 7 service information indicates funding year service start dates of 07/01/2001. We believe that the form contains sufficient information that would have allowed the SLC to process the form. In light of the District's persistent effort to track this form 486 the SLC was able to discover that it had been processed in year three by SLC (see attached contact log "ATTACHMENT 4"). The SLC staff knew on October 18, 2001 that the submitted year four 486 form contained a typo and could easily have processed it from the provided information. As indicated on the log, on October 18, 2001, a SLC agent indicated that they had finally located the district's 486, it had been posted to Year 3. The agent then **verified** all the Form 486 information including all 23 year 4 service start dates for the FRNs contained in Block 3 item 7 with the district. It was determined the funding year in Block 1, item 3 had been entered incorrectly as 07/01/2000-06/30/2002. The agent then instructed us to make a copy of our file copy Form 486, make the correction to Block 1, Item 3, and have the authorized signer sign over his original signature and to mail the entire Form 486 to SLD again, which was done the same day. The district contends that SLC could have processed the original form 486 as they had sufficient information and knowledge to do so. Processing the 486 would not have placed any

increased administrative burden on the SLC and would have served to meet the primary objective to ensure that the Lake and Peninsula School District could receive the benefits of the Schools and Libraries universal services support mechanism. We request that SLC process and accept our original Form 486 submitted August 1, 2002.

2) Process entire 2nd Form 486 submitted on October 18th, 2001

In the event that the FCC finds it cannot grant the relief outlined above, we request that it grant relief as follows. On October 18th as instructed by SLC, the District resubmitted its Form 486. Our copy of the form is attached ("ATTACHMENT 5"). The District attests that this is a full and complete copy of the form 486 submitted on October 18, 2001. The district's copy that was made from the original before mailing and is a true and correct copy of the submitted form 486. On December 7, 2001 the District became aware that there was a processing problem with the submitted form. The SLC processed the first page of 8 FRNs contained on block 3 item 7. The additional 2 pages with the above referenced 15 FRNs labeled 3A and 3B were not processed. As indicated on the contact log (ATTACHMENT 4), SLC was unable to locate the missing 2 pages in the scanned images. The district is unable to explain this processing error but adamantly contend that the pages labeled 3A and 3B were submitted. The district has no explanation of why these were not processed and the USAC did not provide any information in the denial. We have searched our files in order to locate the missing pages. The missing pages are not in the district's possession. The district contends and assumes that the pages were lost in processing at SLC. We surmise that the instructions provided for submitting 486 may in part be at fault. The instructions indicate that when submitting multiple pages of block 3 item 7 of form 486 that *"If you need additional pages, please label them 3A, 3B, 3C etc. And indicate the number in the space provided here. Page 3 ___"* (wording on page 3 form 486). In accordance with these instructions, we submitted the second and third page with a designation 3A and 3B. We are requesting that the SLC process the entire Form 486 submitted October 18, 2001.

3) Waiver of the October 28th 486 filing deadline.

In the event that the FCC finds it cannot grant the relief outlined above, we request that it grant relief as follows. On January 9, 2002 USAC provided a 486 notification letter adjusting the start date on all of the above referenced FRNs to December 19, 2001. As outlined above, the District made every effort to meet the 486 form filing deadlines. The District received its Funding Commitment Decision Letter dated July 23, 2001 in late July 2001. Most services had already been provided since July 1, 2001. The district submitted its form 486 August 1, 2001. This 486 form was returned 79 days later only after discovery of the mistake by SLC primarily because of the district's continued inquiries of SLC on the status of its processing (see attached contact log "ATTACHMENT 4"). A second Form 486 was submitted on October 18, 2001 and verbal notice of missing/non processed FRNs was not received until 50 days later on December 7, 2002. The district made a third submittal with the missing FRNs on a third form 486 on December 19, 2001. The district contends that the combination of the timing of the funding commitment decision letter and that the time required for SLC to process the form 486 is excessive. We believe that the totality of the circumstances surrounding the efforts by the district to comply with the deadlines justifies the granting of a waiver of the October 28th deadline on the third submittal of Form 486. We understand the need for SLC to balance minimized administrative costs against expedited fair and efficient review of submitted paperwork. However, beyond the above indicated circumstances, we believe the time to process the above referenced Form 486 for which a FRN had already been assigned to be excessive. If the District had received a Funding Commitment Decision Letter prior to June 30, 2001 and SLC had processed the first and second submittal within 50 days, the District would easily have been able to submit the 3rd Form 486

prior to the October 28th deadline. The record of the District's past efforts to comply with the rules in order to assist the SLC in providing the students of the Lake and Peninsula School District the benefits of the Schools and Libraries universal services support mechanism should also be considered. All previous 470, 471, 486 and PIA submittals have been timely and accurate. Without the waiver small remote high cost rural districts like ours will be discouraged from future participation because of the undo financial risk. We therefore request that you provide a waiver of the October 28, 2001 filing deadline.

4) Waiver of the CIPA 120 day 486 filing deadline.

In the event that the FCC finds it cannot grant the relief outlined above, we request that it grant relief as follows. On January 9, 2002 USAC provided a 486 notification letter (copy attached "ATTACHMENT 6") in which they adjusted/changed the service start dates on all of the above 15 referenced FRNs to December 19, 2001. The reason listed was that the district failed to meet the required October 28th Year 4 CIPA Deadline. The District has evidence that it certified CIPA compliance on all listed FRNs, which was in the possession of SLC on August 6, 2001 as shown in ATTACHMENT 3. The first year 4 Form 486 filed August 1st and received by SLC on August 6th contained a complete listing of all 23 FRNs for year 4, a block 4 certification for CIPA (page 4 of 5) along with a signed certification (page 5 of 5). The affixed label also indicates that the SLC processed this 486 on August 6, 2001. The district contends that it has provided the CIPA certification and proof of delivery to SLC. The enclosed ATTACHEMENT 3 demonstrates our assertion of timely filing to meet the Year 4 CIPA filing deadline. As outlined above, the district also feels it met the CIPA deadline and requirements with its second filing of the 486 on October 18, 2001. We request that SLC correct the service start date to conform to the new programs rules and provide service start dates 120 days prior to the December 19th postmark of the districts third 486 form submittal. This would establish the service start date to August 21, 2001 in accordance with the new rules for Year 4. We request that the FCC grant this waiver in the event it is unable to grant the previously listed requests for relief.

Discussion:

The Lake and Peninsula School District is gravely concerned over this issue. The District has committed funds based on the initial Funding Commitment Decision Letter for which it has no current means to pay. Being a remote rural district, we have limited administrative capacity to accommodate the numerous requirement and filings of this program. In spite of our limitation, we have worked very hard and made every effort to diligently comply with this program's filing, application and paperwork requirement. We are now extremely frustrated over the program operations and rejections of our appeal by SLC. We think that the rejection is based on technicalities and contains the appearance of dealing in bad faith. I do not believe that it was the intention of the Act or of the FCC to establish a program that places small rural districts at such a high risk by participating. Our hopes were that through this program we could provide opportunities to students and schools through access to advanced telecommunications and internet services similar to those enjoyed by districts in other parts of the country. We had no idea of the risk involved in our decision to participate. Our ongoing frustration with the program continues as our current year 5 application is still in review as of this writing. School districts are not telecommunication companies or service providers. Schools should simply be the recipients of the benefits of universal service as outlined in the act. The program's changing forms and processes require constant review and ever increasing administrative costs. In our case it increased the probability of honest mistakes by both SLC and us. As an example, the new instructions for year 4 for filing the form 486 is 24 pages long (see Form 486

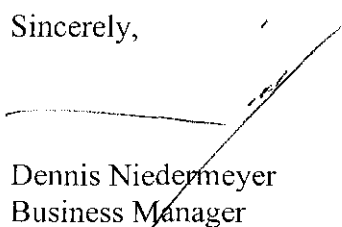
instructions - July 2001). This form's purpose is simply to let the SLC know that we wish to accept the funding and agree to meet the program requirements. These lengthy instructions illustrate the increasing complicated nature of a program design to accomplish a simple purpose of allowing schools to receive discounted services. We support the intention and the efforts of the FCC and SLC to provide discounted basic phone and internet services. However, I do not believe that the complicated nature of the program rules advances the intent of the act. We also do not think the act envisioned the programs operations to result in districts assuming administrative responsibilities and these enormous financial risks. Because of the dire need for the services provided through the subsidy, we make commitments and accepted services fully expecting the support to follow as intended. We believe that SLC's late funding notification and delays in cementing the actual funding commitment until a form 486 is certified puts the district at continuing untenable financial risk. Based the programs timing, the district has no other means to rectify its situation after the fact. Our involvement in this program now threatens basic instructional programs. Cuts will need to be made should this appeal be rejected. In our experience with other federal and state entitlement programs the actual commitment is made prior to the time that a district must make the financial commitment. At fault may be the administrative structure of this program as a direct funding entitlement to schools. Universal service for schools as contemplated within the act was to establish discounted services to schools by providers. We do not believe it was intended to involve schools in becoming an active participant in FCC's or USAC's administering of this universal service delivery mechanism. We believe that the FCC, NECA, USAC, and telecommunication providers are the parties responsible for meeting the goals of the act. Schools and students should only be the recipients of quality services including access to advanced telecommunications services and special services at just reasonable and reliable rates comparable to those in urban areas based simply on a school's bona fide request. We request the Commission to consider these items in its review of this appeal and or waiver request. We also implore the Commission and SLC to make future changes to the administration of this program to allow schools to simply purchase these needed services at reasonable rates.

Summary:

The Lake and Peninsula School District requests that the FCC grant relief to the SLC's denial of our appeal. We request any action that will correct the service start dates for FRNs contained in the originally submitted Form 486, the resubmitted Form 486, and or the third submission of Form 486 to reinstate funding. The district is not experienced in filings with the FCC and request that if we have made any procedural errors or omissions that you allow us to correct them prior to the end of the 60 day filing deadline. Your efforts on our behalf will be appreciated. If you have any questions, need additional information, documentation, or clarification please feel free to contact me. My contact information is as follows:

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Sincerely,


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